

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2001-209-C - ORDER NO. 2005-348

JULY 7, 2005

IN RE: Application of BellSouth Telecommunications, Inc. to Provide In-Region InterLATA Services Pursuant to Section 271 of the Telecommunications Act of 1996.	)	ORDER APPROVING
	)	MOTION AND
	)	ADOPTING
	)	SETTLEMENT

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Joint Motion for Adoption of Settlement of Disputed Claims (the Joint Motion) that BellSouth Telecommunications, Inc. (BellSouth) and the Competitive Carriers of the South, Inc. (CompSouth) filed in this docket on or about February 11, 2005.

On July 20, 2004, BellSouth filed a letter notifying the Commission that BellSouth was withdrawing its Statement of Generally Available Terms (SGAT). In response, on September 2, 2004, CompSouth filed its Petition requesting that the Commission prevent BellSouth from withdrawing the referenced SGAT. On September 7, 2004, US LEC of South Carolina, Inc. (US LEC) and Southeastern Competitive Carriers Association (SECCA) filed a petition, a notice of intent, and comments in which they requested that the Commission prevent BellSouth from withdrawing the referenced SGAT. US LEC and SECCA are the only parties that have voiced any concern over BellSouth's withdrawal of its SGAT, other than CompSouth.

Subsequently, BellSouth and CompSouth reached the settlement and compromise that is described in the Joint Motion. BellSouth and CompSouth had asked US LEC and SECCA to accept the settlement, but they declined to do so. Accordingly, BellSouth and CompSouth filed the Joint Motion asking that the Commission enter an Order adopting the settlement in final resolution of this docket over the objections of US LEC and SECCA.

On March 24, 2005, the Commission entered an Order addressing the Joint Motion (Order No. 2005-142). In that Order, the Commission stated that “we believe that we would deny US LEC and SECCA their due process rights if we adopt the terms of the settlement for all parties without hearing from them on the issues.” The Commission, therefore, held that the Joint Motion “should be held in abeyance for consideration at the hearing on this matter.”

After issuance of Order No. 2005-142, US LEC and SECCA filed a petition asking the Commission for permission “to withdraw their objection to the [Joint Motion] that has been submitted for approval by [BellSouth] in the above-styled proceeding.” The Petition states that US LEC and SECCA are in agreement with the resolution of the disputed claim as set forth in the Motion.” This Petition has been granted by this Commission in Order No. 2005-347. Accordingly, each of the three parties that have raised concerns over BellSouth’s withdrawal of the SGAT is now in agreement with the resolution set forth in the Joint Motion. As such, the circumstances that led the Commission to hold the Joint Motion in abeyance no longer exist, and it is neither necessary nor appropriate to hold a hearing on this matter, according to BellSouth.

In light of the foregoing, BellSouth requests that the Commission enter an Order adopting the settlement set out in the Joint Petition in final resolution of this matter.

BellSouth's July 20, 2004 letter informed this Commission that it was withdrawing its SGAT in response to a decision issued by the United States Court of Appeals for the District of Columbia, which vacated certain Federal Communications unbundling rules. As a result, BellSouth stated that its SGAT, including any modifications and/or replacements to the SGAT that may have been filed in the past was no longer compliant with the current law. BellSouth also noted that the filing of an SGAT is permissive, not mandatory. Further, the Company noted that no competitive local exchange carrier (CLEC) has ever adopted BellSouth's SGAT in South Carolina. Instead the various CLECs have either adopted BellSouth's standard interconnection agreement, adopted other interconnections agreements, or have negotiated or arbitrated their own agreements. BellSouth notes that each of these options would still be available to CLECs even if the requested withdrawal of the SGAT is granted.

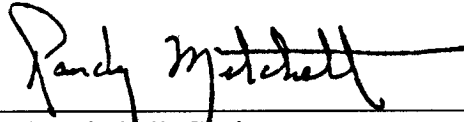
BellSouth and CompSouth subsequently reached a settlement and compromise that we now consider, in view of the withdrawal of the objections of US LEC and SECCA. We now modify our holding in Order No. 2005-142.

We have examined the Joint Motion for Adoption of Settlement of Disputed Claims, and hold that the Motion should be granted. (See Exhibit 1 to this Order.) Under the settlement agreement, among other things, no CLEC may adopt BellSouth's SGAT in whole or in part as of June 15, 2005. BellSouth will maintain its Standard Interconnection Agreement on its interconnection website and make it available to CLECs pursuant to

Federal law. We find the terms of the settlement agreement fair and reasonable. We therefore grant the Motion, and approve the settlement agreement. The matter of BellSouth's withdrawal of its SGAT is therefore closed.

This Order shall remain in full force and effect until further Order of the Commission.

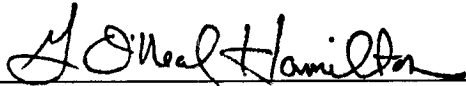
BY ORDER OF THE COMMISSION:



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Randy Mitchell, Chairman

ATTEST:



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G. O'Neal Hamilton, Vice-Chairman

(SEAL)

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2001-209-C

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COMMISSION

IN RE:

BELLSOUTH	)	JOINT
TELECOMMUNICATIONS, INC. -	)	MOTION FOR ADOPTION OF
APPLICATION TO PROVIDE IN-REGION)	)	SETTLEMENT OF
INTERLATA SERVICES PURSUANT TO )	)	DISPUTED CLAIMS
271 TELECOMMUNICATIONS ACT OF )	)	
1996 - SIX-MONTH REVIEW	)	

As explained below, BellSouth Telecommunications, Inc. ("BellSouth") and the Competitive Carriers of the South, Inc. ("CompSouth") respectfully request the Public Service Commission of South Carolina ("the Commission") to enter an Order adopting the settlement agreement set for below in final resolution of this docket.

On July 20, 2004, BellSouth filed a letter notifying the Commission that BellSouth was withdrawing its Statement of Generally Available Terms ("SGAT"). In response thereto, on September 2, 2004, the Competitive Carriers of the South, Inc. ("CompSouth") filed its petition requesting that the Commission prevent BellSouth from withdrawing the referenced SGAT. On September 7, 2004, US LEC of South Carolina, Inc. ("US LEC") and Southeastern Competitive Carriers Association ("SECCA") filed a petition, a notice of intent, and comments in which they requested that the Commission prevent BellSouth from withdrawing the referenced SGAT.

In order to resolve this dispute, BellSouth and CompSouth have reached the settlement and compromise described below regarding the withdrawal of the SGAT.

BellSouth and CompSouth have asked US LEC and SECCA to accept the settlement set forth below, but they have refused. Accordingly, BellSouth and CompSouth respectfully request that the Commission enter an Order adopting the following settlement in final resolution of this docket over the objections of US LEC and SECCA:

**Settlement of Disputed Claims**

1. Except as set forth in paragraph (2) below, BellSouth's SGAT will be withdrawn and of no force and effect as of the earlier of: (a) the date of vacatur of the Interim Rules announced in the FCC's Order and Notice of Proposed Rulemaking, *Unbundled Access to Network Elements*, and *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Dockets 04-313 and 01-338 ( released August 20, 2004); (b) the date the FCC implements permanent rules in FCC Dockets 04-313 or 01-338; or (c) March 12, 2005.

2. For any competitive local exchange carrier ("CLEC") that adopted, and was operating under, BellSouth's SGAT as of June 15, 2004, the withdrawal of BellSouth's SGAT pursuant to paragraph (1) above does not impact the rates, terms and conditions under which BellSouth provides service to such CLEC.

3. As of June 15, 2004, no CLEC may adopt BellSouth's SGAT in whole, or in part.

4. Once BellSouth's SGAT is withdrawn and no longer in force and effect, BellSouth will maintain the BellSouth Standard Interconnection Agreement on its interconnection website and make that Standard Interconnection Agreement available to CLECs pursuant to federal law.

5. In the event that BellSouth makes changes to its posted Standard Interconnection Agreement referred to in paragraph (4) to implement a change in law or orders of this Commission, a CLEC may petition this Commission requesting that the Commission resolve any dispute concerning such changes; however, this agreement shall not preclude BellSouth from asserting any defenses that it might ordinarily have to such a petition. In addition, where a CLEC requests to enter into BellSouth's Standard Interconnection Agreement, nothing in paragraph (4) above shall limit that CLEC's right to initiate an arbitration proceeding under Section 252(b) of the 1996 Act challenging any provision of the BellSouth Standard Interconnection Agreement that the CLEC believes is inconsistent with the law or orders of the Commission.

6. The Parties agree that the Petition filed by CompSouth on September 2, 2004 in Docket No. 2001-209-C shall be dismissed with prejudice.

7. This settlement is contingent upon the Commission approving the settlement and issuing an Order with the terms set forth above that is a final resolution of this docket including, without limitation, a final resolution of the Petition, Notice of Intent, and Comments filed by US LEC and SECCA on September 7, 2004 in Docket No. 2001-209-C.

8. The Parties agree that this settlement is made in order to avoid the further expense of litigation and that by entering into this settlement neither BellSouth nor CompSouth makes any admission regarding the validity of the position of the other party in this dispute.

Exhibit 1

Docket No. 2001-209-C

Order No. 2005-348

July 7, 2005

Respectfully submitted,

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